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5 UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON

6 RIVERBANK, a Washington State Chartered  
7 Bank

8 Plaintiff,

9 v.

10 M/V ROCK A BYE, Official No. 1152013, her  
11 engines, boilers, machinery, components, etc.,  
12 *in rem*  
and

13 JOHN GF HIEBER JR. and DEBRA A.  
14 HIEBER, individually and on behalf of their  
marital community, *in personam*

15 Defendants.  
16

AT LAW AND IN ADMIRALTY

CASE NO. C18-387RSM

ORDER GRANTING MOTION TO  
APPOINT SUBSTITUTE CUSTODIAN

17 Plaintiff has moved this Court for an Order Appointing Crow's Nest Yachts Substitute  
18 Custodian for the defendant vessel, ROCK A BYE, Official Number 1152013 ("Vessel"). The  
19 Court, having reviewed plaintiff's motion, the declaration of the proposed substitute custodian, and  
20 the affidavit of Daniel G. Byrne, President and Chief Executive Officer for plaintiff, the Court  
21 finds that:  
22

- 23 1. The Vessel has been or will be arrested by the U.S. Marshal;  
24 2. The Vessel is currently located at the Pacific Marine Center in Anacortes, Washington;  
25 3. RiverBank is agreeable to allow Crow's Nest Yachts, through its Member Dale Partna, to  
26 assume the responsibility of safekeeping the Vessel and Crow's Nest Yachts, through its Member  
27  
28

ORDER FOR SUBSTIUTE CUSTODIAN - 1

{S1670546; 1 }



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1 Dale Partna, has consented to act the Vessel's custodian until further Order of the Court. Fees and  
2 expenses to be charged by Crow's Nest Yachts will be substantially less than the cost of leaving  
3 the Vessel in the custody of the United States Marshal.

4  
5 4. The Substitute Custodian, Crow's Nest Yachts, has no interest in the outcome of the action  
6 in which the Vessel is or will be under arrest;

7 5. No person except the Substitute Custodian and its agents will be allowed to enter the vessel  
8 except as necessary to adequately safekeep and protect the vessel, and except as may be expressly  
9 ordered by the Court;

10  
11 6. The moving party and/or Substitute Custodian has obtained the insurance covered required  
12 by the applicable statutes and rules;

13 7. The moving party agrees to release the United States and the United States Marshal from  
14 any and all liability and responsibility arising out of the care and custody of the vessel, from the  
15 time the Marshal transfers possession of the vessel to the Substitute Custodian until the vessel is  
16 released or sold, and agrees to hold harmless and indemnify the United States and the United States  
17 Marshal from any and all claims whatsoever arising out of the substitute custodian's possession  
18 and safekeeping;

19  
20 8. The proposed Substitute Custodian accepts appointment as Substitute Custodian and  
21 possession of the Vessel and will safely keep the Vessel for the duration of the appointment as  
22 Substitute Custodian.

23  
24 THEREFORE, IT IS ORDERED that the United States Marshal for the Western District  
25 of Washington be, and is authorized and directed, upon the seizure pursuant to the Warrant for  
26 Arrest of said Vessel, her engines, machinery, tackle, furniture, apparel, appurtenances, and  
27 equipment, etc., to surrender the custody thereof to Crow's Nest Yachts, through its Member Dale  
28

ORDER FOR SUBSTIUTE CUSTODIAN - 2

{S1670546; 1 }



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1 Partna, as Substitute Custodian, and that upon such surrender the United States Marshal shall be  
2 discharged from all duties and responsibilities for the safekeeping of said Vessel and held harmless  
3 from any and all claims arising out of its said custodial services.  
4

5 IT IS FURTHER ORDERED that the Substitute Custodian shall see to and be responsible  
6 for the safekeeping of the Vessel. Duties of the Substitute Custodian shall include, but are not  
7 limited to, ensuring that there is safe, secure moorage for the Vessel. The Substitute Custodian is  
8 not required to have a person live on board the Vessel, but an officer or authorized agent of the  
9 Substitute Custodian shall go on board from time to time to carry out the duties of Substitute  
10 Custodian. No other person shall be allowed to enter on the vessel except as provided for herein  
11 or as otherwise expressly authorized by Order of this Court.  
12

13 IT IS FURTHER ORDERED that the expenses outlined in the Substitute Custodian's  
14 declaration shall be deemed administrative expenses of the United States Marshal.  
15

16 DATED this 15th day of March, 2018.  
17

18 

19 RICARDO S. MARTINEZ  
20 CHIEF UNITED STATES DISTRICT JUDGE  
21

22 Presented by:

23 WITHERSPOON · KELLEY  
24

25 /s/ Michael D. Currin

26 MICHAEL D. CURRIN, WSBA # 14603  
27 CASEY M. BRUNER, WSBA # 50168  
28 PAMELA D. COMBO, WSBA # 53012  
ATTORNEYS FOR PLAINTIFF RIVERBANK  
WITHERSPOON KELLEY

ORDER FOR SUBSTIUTE CUSTODIAN - 3

{S1670546; 1 }



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ORDER FOR SUBSTIUTE CUSTODIAN - 4

{S1670546; 1 }



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